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November 21, 2022

Via ECF

Honorable Hector Gonzalez
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Case Number: 1:21-cv-03703-BMC
Khusenov v. ProKraft Inc.

Dear Judge Gonzalez:

This office represents defendant/third-party plaintiff, ProKraft Inc. and defendant, Pro-Cut in this matter. The following is submitted in support of the defendants' application for leave to submit further papers in support of our motion for summary judgment and/or leave to hold oral argument on the respective motions. This application was not made earlier as I have been on trial in Supreme Court, Kings County on a complex matter since September 6th and the trial continues.

Pursuant to the instruction of Judge Cogan, we moved for summary judgment on the strength of the case law, without an expert's affidavit. Plaintiff submitted opposition papers with an expert's affidavit. Upon application, the Court granted leave to submit a supplemental briefing on this matter, which included our expert's affidavit, and Plaintiff was granted leave to interpose additional papers responding to our supplemental briefing. As such, even though we made the motion in chief, the Plaintiff had the opportunity to have the "last word."

As such, we request the opportunity to respond to the plaintiff's arguments in his supplemental brief and/or the opportunity for oral argument to address the issues in the supplemental papers. May the Court note that the parties have recently agreed to a private mediation of this matter to attempt to resolve the case. As such, the parties would not be prejudiced by the opportunity to further address the motions since the mediation date will be pending. Thank you for your attention to this matter,

Respectfully,

O'CONNOR REDD ORLANDO LLP

/s/

Peter Urreta

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